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THE HON'BLE SRI JUSTICE E. DHARMA RAO

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WRIT PETITION NO. 17097 OF 2005

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DATED 03.08.2005

Between:

1. Smt. Manda Yadamma, W/o late Ramaiah aged about 55 years, S.C., Occ. House Wife and others

Petitioners

and

1. The Mandal Revenue Officer, Maheshwaram Manal, R.R.District and others

Respondents

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ORAL ORDER:

Heard both sides.

In this Writ Petition, petitioners are seeking a writ of Mandamus, declaring the Proceedings bearing No. D/1177/95 dated 25.7.2005 issued by the first respondent as illegal and consequently set aside the order passed in the proceedings bearing No. D/1177/95 dated 10.7.1995 and thereby direct the first respondent to conduct an enquiry.

When the matter is taken up for admission, the learned counsel appearing for the petitioners is unable to show any provision of law, therefore, I see no infirmity in the order passed by the Mandal Revenue Officer rejecting the application filed by the petitioner. If the petitioner is aggrieved of the order passed by the Mandal Revenue Officer, he can assail the correctness or otherwise of the order of the Mandal Revenue Officer, before the appellate authority, as provided under the Act.

The learned counsel appearing for the petitioners relied on the decision of the Supreme Court reported in S.P. CHENGALVARAYA NAIDU (DEAD) BY LRS. VS. JAGANNATH (DEAD) BY LRS AND OTHERS, wherein the Supreme Court held "Fraud avoids all judicial acts, ecclesiastical or temporal" observed Chief Justice Edward Coke of England about three centuries ago. It is the settled proposition of law that a judgment or decree obtained by playing fraud on the court is a nullity and non est in the eyes of law. Such a judgment/decree by the first court or by the highest court has to be treated as a nullity by every court, whether superior or inferior. It can be challenged in any court even in collateral proceedings".

If petitioners noticed that the respondents have obtained the order by playing fraud on the Mandal Revenue Officer, he should have approached the authority by way of filing the appeal. Therefore, the judgment relied on by the petitioners' counsel is not applicable to the facts and circumstances of the case.

Accordingly, the Writ Petition is dismissed. No order as to costs.

ELIPE DHARMA RAO,J

DATED: 3.8.2005

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